

### Remarks

1. Referring to section 3, part a of the Office Action, applicants have amended claims 1, 6, 11 and 16 to 18 to replace the clause "capable of communicating" by the clause "arranged to communicate" merely in order to address in a manner that satisfies the Examiner's objection that the original clause is not a positively recited claim limitation. For the record, applicants point out that anything that is said to be "capable of communicating" must have that ability which thus constitutes a positive claim limitation.

2. Referring to section 3, part b of the Office Action, applicants have amended claims 2 to 4 to refer to "The system" and claims 12 to 14 to refer to "The method", once again merely to remove from further consideration the objection to insufficient antecedent basis. Applicants have also amended claims 7 to 9 to refer to "The apparatus" since the same logic underlying the Examiner's objection to claims 2 to 4 and 12 to 14 must apply to these claims also.

3. Referring to sections 4 through to 7 of the Office Action, the Examiner will note that applicants have amended independent claims 1, 6, 11, 16 to 18 and 22 in a manner believed to more clearly distinguish the present invention over the prior art of record, but has maintained independent claims 5, 10, 15, 19, 20, 21 and 23 as originally filed since Mikkonen et al (US6501741) and Das (US6742036) fail to teach all of the claims limitations of these claims.

4. In the present invention as now defined by amended claim 1, the first node has a first address associated with a first path from said node to a communications network and a second address associated with a second path from said node to the communications network, wherein a communications protocol controlling communications between the first node and a second node uses a dynamic address

variation facility for managing mobility of the first node with respect to the communications network, wherein the communications protocol is arranged to use the dynamic address variation facility to support a use of the second address instead of the first address to identify the first node for communicating a packet between the first node and the second node in response to a non-mobility related requirement.

5. The Examiner will be aware that in *ex parte* examination of patent applications, the Patent and Trademark Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent and Trademark Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Plasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent and Trademark Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985). A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or

suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

6. The Examiner has referred to col. 9, lines 6 to 12 of Mikkonen as disclosing a dynamic address variation facility for managing mobility. This part of Mikkonen essentially comprises a reference to "IPv6 Home Agent" and, in fact, specifically identifies this reference. "IPv6 Home Agent" enables a mobile node such as a mobile terminal, for example, to retain the same IP address and maintain uninterrupted network and application connectivity while travelling across networks, i.e. in response to a mobility related requirement. The mobile node is loaned an IP address by the foreign network it is currently operating in. The mobile node has a home agent that maintains an association between the mobile node's home IP address and the IP address loaned to it by the foreign network it is currently operating in. The loaned IP address exists only as long as the mobile node is operating in the foreign network. Thus, the mobile node is able to maintain network connectivity using its home IP address regardless of the link that it is actually connected by means of the association of its home and loaned IP addresses maintained by its home agent while it is operating in the foreign network.

7. It will noted, however, that the mobile node when operating in its home network will have at any point in time just a single path to the communications network identified by its home IP address. In the case where the mobile node is operating in a foreign network, it will still only have a single path between it and the communications network via the foreign network identified now by its home IP address and the associated loaned IP address. So, although the mobile node may be argued to have two IP addresses while it is operating in a foreign network, these between them identify a single path between the node and the communications network. Consequently, the mobile node does not have two (or more) alternative paths to the communications network that are identified by respective IP addresses

where a choice between which path to use can be formulated on a non-mobility related requirement.

8. Das also addresses the issue of IP address allocation for mobile nodes when operating in foreign networks through interrogation of a subscriber's identification input through his/her mobile node (terminal), i.e. in response to a mobility requirement. Irrespective of the IP address(es) allocated to the mobile node operating in a foreign network, Das is similar to Mikkonen in that there is only a single path between the mobile node and the communications network via the foreign network. Das does not disclose a mobile node having two (or more) alternative paths to the communications network that are identified by respective IP addresses where a choice between which path to use can be formulated based on a non-mobility related requirement.

9. It can be seen therefore that neither Mikkonen nor Das in combination teach all of the claims limitations of claim 1 as amended. It can also be concluded that the modification of Mikkonen by Das cannot result in the arrangement of the present invention since neither teaches using a communications protocol having a dynamic address variation facility for managing mobility to identify one of a number of IP addresses for a node based on a non-mobility related requirement. Further, it can be concluded that a skilled addressee would not be motivated to combine Mikkonen and Das since neither addresses the issue of selecting paths based on a non-mobility related requirement. In fact, each addresses the allocation of IP addresses to mobile nodes in response to a mobility related requirement in ways that result in similar consequences.

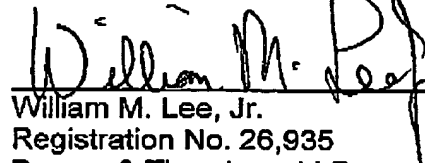
10. The above reasoning of sections 5 to 9 of this paper is equally applicable to amended independent claims 6, 11, 16 to 18 and 22 as well as original independent claims 5, 10, 15, 19, 20, 21 and 23. These latter claims refer to first and second access networks etc. Neither Mikkonen nor Das teach the selection of different

access networks having respective IP addresses using a communications protocol having a dynamic address variation facility for managing mobility to identify one of said IP addresses based on a non-mobility related requirement.

11. In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance.

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